

Forn Aid

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Administration Urged Defeat

Senate Kills Restrictive Aid Bill

By Spencer Rich
Washington Post Staff Writer

The Senate, on strong urging from the White House, killed the foreign-aid bill on a 41-to-39 vote yesterday because it contained restrictions on aid to Turkey, Chile and Southeast Asia that President Ford considers unacceptable.

It was a new round in the furious battle over Senate insistence on exerting close policy supervision over the aid program and foreign policy in general.

The Senate Foreign Relations Committee, loaded with men who view much of the aid

program as a handout to help crumbling military dictators the White House views as "loyal" to the United States, had slashed aid to Korea, South Vietnam, Cambodia and Laos by about 40 per cent and had written in a series of restrictions on military aid and on fund transfers that evade existing ceilings. In addition, it chopped the overall program authorization from the \$3.3 billion sought by the White House for fiscal 1975 to \$2.5 billion.

Yesterday on the floor a whole new set of restrictions was written in, including, on a

48-to-34 vote, a flat ban on military aid to Turkey on grounds that, when it invaded Cyprus, it misused military equipment that the United States had intended only for self defense.

On Tuesday, when a similar amendment was nailed into another measure, President Ford warned that it would bring a veto because it would undermine Secretary of State Henry A. Kissinger's negotiations for a Cyprus settlement.

Also approved yesterday was an amendment by Edward M. Kennedy (D-Mass.), op-

See AID, A12, Col. 4

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posed by Mr. Ford, barring aid to Chile on grounds that Chile's military junta is guilty of torture and political repression.

When these and other amendments disliked by the State Department were tacked on yesterday, the White House, already unhappy with the Foreign Relations Committee measure, backed a recom-mittal move by John O. Pastore (D-R.I.), which passed on the 41-to-39 tally. Pastore said Congress should come back in November and try to work out a better measure.

Spokesmen for Mr. Ford and lobbyists for the program endorsed this view and spread the word in the cloakroom that the White House would rather kill the bill than accept the restrictive amendments.

The White House strategy is based on the assumption that, for the present at least, it can do better on the aid program

by supporting a "continuing resolution" to fund the program.

The continuing resolution, providing funding until Congress adjourns for agencies whose regular appropriations haven't passed, won Senate approval, 76 to 12, Tuesday.

The White House had hoped that this measure, allowing the aid program to go forward, could be passed without any legislative restrictions attached, but Sens. Thomas F. Eagleton (D-Mo.) attached his Turkey curb on that measure and Kennedy also won approval of his Chile aid ban.

In addition, Sen. Alan Cranston (D-Calif.) Tuesday attached a fund cut that sliced the spending authority in the continuing resolution for foreign aid to far below the amount allowed by the Foreign Relations Committee bill.

However, the White House appeared to be calculating that it would be easier to get the House-Senate conferees to

the resolution (the Appropriations Committees to drop the Turkey, Chile and Cranston amendments than to get them expunged from the basic foreign aid bill.

The reason for this belief is that an existing continuing resolution, carrying forward the Department of Health, Education and Welfare, the Labor Department, the foreign aid program and several other small programs, expired at midnight Sept. 30. Unless the continuing resolution is passed quickly, the government will run out of money for these agencies and won't be able to meet payrolls.

Thus, there is great pressure all around to push the continuing resolution through in "clean" form, dropping amendments that delay agree-

ment. Yesterday, however, in the first meeting of the Appropriations conferees on the continuing resolution, members clashed over Eagleton's Turkey-aid ban and didn't make any progress toward agreement.

Before killing the basic aid authorization the Senate spent the whole day voting on amendments. James Abourezk (D-S.D.) offered the Turkey aid ban—identical to the one Eagleton had attached to the continuing resolution—and it was adopted on the 48-to-34 tally. Kennedy's Chile ban won.

Abourezk lost, 68 to 17, on a move to ban all covert activities by the CIA, such as assassination, sabotage, political disruptions, or other meddling in the internal affairs of foreign nations.

SENATE SHELVES FOREIGN AID BILL IN FORD VICTORY

Action Put Off at Least Until
After November Election
—Vote Is 41 to 39

LIMITING RIDERS ADDED

One Would Have Restricted
C.I.A.'s Covert Activity
—Others Cut Aid

By SEYMOUR M. HERSH
Special to The New York Times

WASHINGTON, Oct. 2—The Senate upheld the Ford Administration tonight by voting to shelve—at least until after the November elections—this year's controversial \$2.5-billion foreign aid bill. The vote was 41 to 39.

The vote came after critics of the Administration's foreign policy forced through a series of restrictive amendments, including a ban on all clandestine activities of the Central Intelligence Agency, except those specifically listed by the President as vital to national security.

The foreign aid bill, with its amendments, will now be sent back for further consideration to the Senate Foreign Relations Committee—a step that may possibly kill the measure for this year.

Early Move Fails

Earlier the Administrations' supporters failed by a vote of 43 to 39 in an attempt to recommit the bill. As debate proceeded, however, and more restrictive amendments were approved, pro-Administration forces were successful.

Among the amendments approved during the long day were measures putting a ceiling on economic aid to Indochina, phasing out military aid to

South Korea, cutting out military aid to Turkey and eventually abolishing the entire military assistance program.

The recommitment vote was cast after a motion by Senator John O. Pastore, Democrat of Rhode Island, who termed the bill a "hodge-podge" that did not make legislative sense. The measure was further castigated as "a political punching bag" by Senator Robert P. Griffin of Michigan, the assistant Republican leader.

'A Fighting Chance'

Senator Hubert H. Humphrey, Democrat of Minnesota, the floor manager of the bill, accused the Administration of "sorry lack of planning on the whole policy of foreign assistance" that, in effect, led to the amendments approved during debate.

"If the Administration would back this bill," he added, "we might have a fighting chance."

The C.I.A. amendment adopted by voice vote, provided

ed that the President must justify a request for secret foreign intelligence operations by describing his proposal in a written report to the appropriate committees of the House and Senate.

Without such specific notice, the amendment says, all covert C.I.A. activities now in progress would be forced to cease, and no new operations could be initiated.

"This is only a beginning toward the imperative of imposing some order and structure to the means by which the American people can exercise a measure of control over the cloak and dagger operations of our intelligence," Senator Harold E. Hughes, Democrat of Iowa, who sponsored the amendments.

Amendment has Compromise

Recent disclosures that the C.I.A. was heavily involved in undermining the Government of the former Chilean President, Salvador Allende Gossens, have led to increasingly bitter criticism of the morality and efficacy of clandestine activities.

Nonetheless, Mr. Hughes's amendment was a compromise whose approval came only after the Senate voted 68 to 17 to defeat an amendment that would have flatly barred all clandestine C.I.A. operations. That amendment was proposed by Senator James Abourezk, Democrat of South Dakota.

Senator Hughes, in arguing for his version, recalled that at a conference last month William E. Colby, the Director of Central Intelligence, declared that there would be no "major impact" on the nation's security if the United States ceased its covert operations. His Amendment, the Senator said, "would translate" Mr. Colby's words into legislation.

C.I.A. officials had no comment on the amendment, but one intelligence official described the legislation as unprecedented and said if passed into law, it would "put a condition" not on the C.I.A. but on the President's right to order clandestine activities.

House to Get Briefings

In a related development, House members said today that the Administration had agreed to provide the House Foreign Affairs Committee with official briefings on C.I.A. operations that could affect foreign affairs.

Representative Lucien N. Nedzi, Democrat of Michigan, who is chairman of the House Armed Services Intelligence subcommittee, said in a telephone interview that a basic agreement to broaden Congressional responsibility was worked out at a meeting last week involving Mr. Colby and Secretary of State Kissinger, as well as Congressional leaders.

"From now on," Mr. Nedzi said, "any matters involving the C.I.A. which affect foreign policy—including 40 Committee decisions—will be related to the House Foreign Affairs Committee."

The Congressman, who said he strongly supported the move, added that the understanding called for C.I.A. briefings before major clandestine activities were initiated. "This isn't a significant change," he said, "because this is what's been happening since I've been aboard" as committee chairman.

Mr. Nedzi and other officials denied a report published today in the Knight Newspapers that quoted Mr. Colby as having announced at last week's meeting that the C.I.A. had decided to end its overseas covert operations.

Colby's Stand Cited

No such statement was made, Mr. Nedzi said. The Congressman noted, however, that Mr. Colby had publicly said in the past that covert activities had been cut back in recent years. "There's nothing going on now that can be remotely described as a Chilean situation," Mr. Nedzi said.

The revised procedure to broaden the Congressional role was depicted as not enough by Representative Michael J. Harrington, Democrat of Massachusetts, who has been demanding full-scale hearings into both the United States policies toward the Allende Government and what he has termed the lying of Administration officials about those policies.

"I'm not taken with assurances that all will be well," Mr. Harrington said. "This only contributes to the illusion of oversight; it doesn't solve the problems as they are."

The revision, he said, "has a distracting effort on the real issue—engaging in a thorough investigation of Chile."

Mr. Harrington, a member of the Foreign Affairs Committee, has been unsuccessfully urging Representative Thomas E. Morgan, Democrat of Pennsylvania who is committee chairman, to initiate broad hearings into the Chilean policies.

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Calendar No. 297

93d Congress
2d Session

HOUSE OF REPRESENTATIVES

REPT. 93-916
PART II

COMMITTEE REFORM AMENDMENTS OF 1974

REPORT

OF THE

SELECT COMMITTEE ON COMMITTEES

U.S. HOUSE OF REPRESENTATIVES

TO ACCOMPANY

H. Res. 988

Together With

SUPPLEMENTAL VIEWS



MARCH 21, 1974.—Referred to the House Calendar
and ordered to be printed

Tuesday through Thursday. Such a procedure would result in a greater use of all days of the week than is now the practice. (See appendix F).

Reserved periods for oversight and planning hearings. The select committee's recommendations provide for a much expanded oversight and planning function by both the Government Operations Committee and the oversight responsibilities of standing committees. In order to provide more time for this type of committee work, it would be desirable, insofar as is possible, if the business of the House could be scheduled so that committees would have certain weeks of the year reserved for the purpose of oversight and planning hearings, not only in Washington, but also outside the capital. It is unfortunate that the public image of Congress is that its Members are working only when it is in session; in reality much work is done in committee sessions, in offices, or in their districts. To say that Congressmen are carrying out their duties and responsibilities only when in session is as unfair as to say a lawyer is working only when in court, or an athlete need not practice but just play the game. By designating periods for oversight hearings, not only would this responsibility be emphasized, but the public's understanding of the role of the Congressman would be improved.

More adequate meeting rooms. The select committee recommends a new commission to conduct a study of administrative services and space needs. Clearly more committee rooms are needed, with better facilities. Until such time as more rooms are provided, anything that can be done to use existing facilities, such as use of a centralized scheduling service or informal cooperation between committees, would help to reduce space limitations as a cause of meeting conflicts.

III. EARLY ORGANIZATION OF THE HOUSE

The uneven flow of legislation in the course of each session of Congress creates considerable problems.

Typically, the trickle of bills reported at the beginning of the session, especially the first session of each Congress, becomes a congested flood as the session draws to a close. Worse yet, the more important measures, particularly authorization bills, tend to pile up in the latter part of the session.

As a result, there is often insufficient time for adequate consideration and debate of major bills on the House floor, or for adequate consideration of appropriation bills even in committee; legislative action can then tend to become hasty, premature and perfunctory; and Congressional control of Federal programs and policies is further dissipated.

One of the suggestions made by Speaker Albert, in which Minority Leader Ford concurred, was the early organization of the House as a means of reducing legislative congestion. They spoke of a transition period between each House election and the convening of the House,

during which the Democrats could elect the House members. The House could elect its officers, but could also the committees could within a given time.

Provisions for the election of section 401 of the select majority and minority any even-numbered year interval between November as reelected Members each party at the caucus leaders and committee.

This proposal alone could in the first session of each allow more time for legislation the quality of legislative control over the program.

IV. INTELLIGENCE

During its deliberations the role of the Foreign Affairs Committee be enhanced. The question of economic and political information as a factor of concern for all aspects of central way the effective Affairs Committee proposed.

Also, during its deliberations need for the Science and of military research and policy in its field of primary component of Federal Research Defense.

In both cases, an issue national security classification abroad or internally generated

Intelligence

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during which the Democratic caucus and the Republican conference
could elect the House leadership, and make their committee assign-
ments. The House could then not only adopt its rules and elect its
officers, but could also elect its committees when it first met. Perhaps
the committees could be required to organize themselves for business
within a given time.

Provisions for the early organization of the House are set forth in
section 401 of the select committee resolution. They authorize the
majority and minority leaders after consultation with the Speaker in
any even-numbered year to call a caucus or conference during the
interval between November 15 and December 20. Members-elect as
well as reelected Members would be asked to attend. The business of
each party at the caucus or conference would be primarily to choose its
leaders and committee members.

This proposal alone could advance the legislative work of the House
in the first session of each Congress by one to three months. It should
allow more time for legislative action and oversight activities, improve
the quality of legislation, and help Congress regain its historical
control over the programs and operations of the Federal Government.

IV. INTELLIGENCE AND OTHER NATIONAL SECURITY INFORMATION

During its deliberations, the select committee discussed how the
role of the Foreign Affairs Committee in the field of intelligence should
be enhanced. The question was raised because of the growing impor-
tance of economic and political information in supplementing military
information as a factor in foreign policy and national security. This
concern for all aspects of information seemed to involve in a very
central way the effective performance of the strengthened Foreign
Affairs Committee proposed by the select committee.

Also, during its deliberations, the select committee discussed the
need for the Science and Technology Committee to have an overview
of military research and development if it was to make broad national
policy in its field of primary jurisdiction when the largest single
component of Federal R & D was conducted for the Department of
Defense.

In both cases, an issue closely related was that of protection of
national security classified information, whether intelligence from
abroad or internally generated.

Intelligence

While the select committee did not doubt the appropriateness of
having a number of House committees continue to be responsible for
both legislation and oversight of those departmentally-related intel-
ligence activities within their present jurisdictions (such as the
Department of Defense for the Armed Services Committee, De-
partment of State for the Foreign Affairs Committee, Department of

Justice for the Judiciary Committee, etc.) there was some question as to whether any single existing committee should have exclusive jurisdiction either over the Central Intelligence Agency, which lies outside any cabinet department and is responsive to the National Security Council in the Executive Office of the President, or over the coordination of all intelligence activities, the responsibility of the Director of Central Intelligence.

Apparently, small subcommittees in the Committee on Armed Services and in the Committee on Appropriations which have dealt with intelligence matters have been responsible for such overall coordination of intelligence policy as is made in the House of Representatives. Thought was given to mandating a similar subcommittee in the Committee on Foreign Affairs to work closely with the other two subcommittees. In the end, though believing it desirable for Foreign Affairs to establish such a subcommittee, the select committee stopped short of making a recommendation to this effect because of a reluctance to interfere with the internal organization of committees. It recommended only that the legislative responsibility presently held by the Armed Services Committee be left there intact, while an overview authority over foreign and military intelligence (without added legislative authority beyond that which already exists over the State Department) should be assigned to the Foreign Affairs Committee. This arrangement was in effect the mirror image of the overview of arms control and disarmament extended to the Armed Forces Committee, leaving exclusive legislative authority in that field to the Foreign Affairs Committee. In each field, proposals for concurrent legislative as well as oversight jurisdiction were rejected. The select committee does not dispute that the Armed Services Committee and the Foreign Affairs Committee can each have a vital interest in both information and policy related to intelligence and to arms control, topics which themselves are intertwined. But recommending only oversight or overview as the immediate means for coordination seemed to involve some lesser risks of delay, indecision, deadlock, and rivalry between the two committees than would a complete sharing of legislative jurisdiction.

Defense Secrets

There seemed less reason to involve the Committee on Science and Technology in legislating on matters related to military research and development, as this responsibility was clearly appropriate to the Committee on Armed Services. But because such a large proportion of the total national expenditures for R & D are military and these have implications for technology transfer into the civilian economy and because the Department of Defense contracts for such a heavy percentage of total national scientific and technical manpower, some overview seemed essential to any rational national policy. This oversight was written into the select committee's recommendations on the Committee on Science and Technology.

Protection of National Defense

It is worth noting that some are especially concerned about unusually sensitive kinds of those related to our own new special sources, codes, and id under special safeguards of concern did not relate to whe of sensitive information than that secrets are more likely t smallest possible number of

Obviously, this real concern that the broad policy issues of intelligence activities whose details and review by those with re availability and activities.

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The select committee had the House of Representative tion available to every Member practical application of such a principle and that this applies the issues involved were disc primary reasons for problems that the institution has neve fact is that if the highest offi interpret, and control sensi with Congress will lead to i it available, even when comm such information.

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as some question as to whether they should have exclusive jurisdiction, which lies out- side the National Security Council, or over the responsibility of the

committee on Armed Forces which have dealt with such overall coordination of Representatives. The committee in the Committee on Foreign Affairs to be stopped short of a reluctance to do so. It recommended that the Armed Forces overview authority be held by the legislative authority (State Department). This arrangement would give control and direction, leaving exclusive jurisdiction to the Committee. In addition, as well as oversight, the committee does not dispute that the Armed Forces Committee can deal with policy related to the Armed Forces themselves are inter-related as the immediate risks of the two committees are in conflict.

committee on Science and Technology research and development appropriate to the military and these are a large proportion of the civilian economy is for such a heavy reliance on manpower, some policy. This over-reliance on the

Protection of National Defense Secrets and Intelligence

It is worth noting that some members of the select committee were especially concerned about the inherent problems of protecting some unusually sensitive kinds of national security information, such as those related to our own new technology, and to intelligence collection, special sources, codes, and identities of agents. Some such matters are under special safeguards of law and executive orders. This expressed concern did not relate to whether one committee was a better protector of sensitive information than another; rather, it was related to a belief that secrets are more likely to remain secret if they are exposed to the smallest possible number of individuals.

Obviously, this real concern clashes with another legitimate concern that the broad policy issues involved in new technology and in intelligence activities whose details now are closely held require consideration and review by those with responsibility for policies affected by their availability and activities.

The select committee believes the dangers of the real world are such as to require very close protection of some classes of defense secrets and intelligence activities. Public disclosure of certain of these items of information would be unwise and harmful even to the point of national peril. At the same time, the committee believes that national policy made by the Congress without the best information available would risk being faulty and even dangerous. The question of how to resolve these conflicting needs for closely held secrets and responsible participation in policy making is deserving of serious study by the whole Congress.

The select committee had no desire to change the existing Rules of the House of Representatives, which in principle make all its information available to every Member. The committee recognized that the practical application of such a rule on access is different from the stated principle and that this application can change only to a degree. But as the issues involved were discussed, it became evident that one of the primary reasons for problems on access to information in the House is that the institution has never faced the real issues involved. The hard fact is that if the highest officials of the executive branch who collect, interpret, and control sensitive information believe that sharing it with Congress will lead to its public disclosure, they will not make it available, even when committees go into executive session to receive such information.

There is also another special dilemma of information sharing between these independent branches of Government: While most classified matters of the greatest sensitivity are mutually agreed upon as requiring continued secrecy, a few crucial issues have been classified either because they conflict with the policies put forth by the President, or reflect events in some fashion embarrassing to executive branch agencies. Finally, there are matters legitimately considered secret by

both branches, but where changed circumstances of public policy require some extraordinary move to declassify, possibly over the objections of one branch.

A Proposal To Meet Problems of National Security Information

The select committee discussed whether to mandate new rules and their application in the reported House resolution, or whether merely to include a study of the problem in the appendix to this report. Its decision has been to take a middle ground. Because actual changes in the rules will require more study and debate than the present occasion makes available, and because the matter is simply too important to relegate to an appendix, the select committee includes these recommendations on access to and handling of classified information in the report itself.

The select committee strongly suggests that the House must take the initiative to create an orderly set of rules which govern the receipt, use, storage, and dissemination of national security information and intelligence. These rules should be designed in such a way as to give the same quality of protection as is afforded by the executive branch, but not to tie the hands of the House when overriding considerations of national policy require a change from the restrictions imposed on such information by its originators in the executive branch of Government. These exceptions will require the most careful consideration if the House is to receive sensitive information. As further thought will reveal, the issues are complex, and no abstract set of rules may cover every possible contingency in an unknown future.

To facilitate action by the House, the select committee recommends study of the draft language which follows this paragraph. Members of the select committee did not vote to approve this language as a concrete recommendation for enactment, or it would have been a part of the reported resolution. But it did reach a consensus that the language presented here would be a useful step in translating discussion from generalities to a number of specific issues, and hence it is offered to the House for serious consideration.

In clause 3 of Rule X, add the following new paragraph:

"() (1) The Committee on Armed Services [, and] the Committee on Appropriations [, and] the Committee on Foreign Affairs] shall each have a subcommittee on intelligence consisting of members appointed (without regard to seniority) by the Speaker with the concurrence of the chairman of the committee. Such subcommittees may meet separately on matters within the jurisdiction of their respective committees, or jointly on matters which are of common concern or affect the House generally.

"(2) The two [three] subcommittees meeting jointly shall constitute the special committee on intelligence, and as such shall have responsibility for (A) preparing and maintaining a manual to govern the protection of classified national security information, including

the provision of secure personal clearance procedures and individual Members be required to implement with executive branch agencies for field providing for the effective and procedures relating the House under clause

Insert in Rule X the succeeding clause accord

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"5. (a) All information by any committee or Member or higher as a national deemed to have been subject to all of the rule the disclosure of activities session. No such information other than a Member have been properly cleared information or data in the

"(b) Any Member or employee or data shall be notified disclosure. If in the judgment or data there is special sensitivity the information otherwise participation) the Member acknowledgement that restrictions on disclosure

"(c) Each Member of classified national security a security manual governing copies of applicable statutes penalties for unauthorized clearance standards and the same standards of (branch) shall be prepared and concurred in by the

"(d) House employees staffs of Members), before national security information of investigation and certain sensitivity involved, follow branch.

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the provision of secure storage and the establishment of appropriate
personal clearance procedures for staff employees of both committees
and individual Members, (B) maintaining such central records as may
be required to implement this paragraph, (C) maintaining such liaison
with executive branch agencies as will expedite the orderly investiga-
tion of employees needing clearance, and contracting with executive
branch agencies for field work and searches of files, and (D) otherwise
providing for the effective conduct and administration of activities
and procedures relating to the handling of classified information in
the House under clause 5.

Insert in Rule X the following new clause (and renumber the
succeeding clause accordingly):

"Handling of Classified Information

"5. (a) All information and data whether written or oral received
by any committee or Member of the House which is classified Secret
or higher as a national security matter by the originator shall be
deemed to have been received in executive session, and shall be
subject to all of the rules and procedures of the House which restrict
the disclosure of activities conducted and matters presented in execu-
tive session. No such information or data shall be disclosed to any
person other than a Member, except to those House employees who
have been properly cleared and can demonstrate a need to have such
information or data in the performance of their official duties as such.

"(b) Any Member or employee receiving such classified information
or data shall be notified of its classification and the restrictions on its
disclosure. If in the judgment of the person providing the information
or data there is special sensitivity (or in the case of a Member receiving
the information otherwise than in the normal course of his committee
participation) the Member or employee may be required to sign an
acknowledgement that he or she understands and will abide by the
restrictions on disclosure.

"(c) Each Member or employee who receives or may receive
classified national security information or data shall be provided with
a security manual governing its use and protection, together with
copies of applicable statutes on the protection of official secrets and
penalties for unauthorized disclosure thereof. Such manual and the
clearance standards and procedures for the House (which shall meet
the same standards of protection as those applied in the executive
branch) shall be prepared by the special committee on intelligence
and concurred in by the Speaker and the minority leader.

"(d) House employees (whether on committee staffs or on personal
staffs of Members), before they may receive or be exposed to classified
national security information or data, must be cleared by a process
of investigation and certification which is appropriate to the level of
sensitivity involved, following the criteria which apply in the executive
branch.

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"(c)(1) When a Member receives classified national security information or data otherwise than in the course of his or her committee activities, and believes it is over- or under-classified, he or she may request of the special committee on intelligence that such information or data (in the House) be declassified, or reclassified at another level, as appropriate.

"(2) When a Member receives classified national security information or data in the course of his or her committee activities, and believes it is over- or under-classified, he or she may request consideration of a change in classification by the committee. If the committee by majority vote agrees to the change, it may request such change of the special committee on intelligence.

"(3) The special committee on intelligence, if it agrees with any change requested under subparagraph (1) or (2), shall report its agreement with such change to the Speaker and the minority leader, and if they concur, the change shall automatically be made. If the decision of the special committee or of the leadership is adverse to such change, an appeal may be taken to the floor, in closed door session, at the direction of a majority of any committee.

"(4) Prior to any action by a Member or committee or the special committee on intelligence with respect to the reclassification of any information or data under this subparagraph, such reclassification shall be requested of the originator of the information or data, with a response requested within a period of seven legislative days. Such action shall not be taken prior to the conclusion of such period except in case of an emergency requiring immediate consideration by the House.

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For the specific language of this provision as presently stated in Rule XI and as proposed, see p. 144.

COMMITTEE ON ARMED SERVICES

Paragraph (c) of Rule X establishes the Committee on Armed Services, making little substantial change in its jurisdiction.

The term "common defense," which comes from clause 3 of the present Rule XI, is intended to include the civil defense to the extent that civil defense functions are performed by members or employees of the armed services.

The term "armed services" comprises the departments of Defense, Army, Navy (including the Marine Corps), and the Air Force, their regular and reserve forces and other components, and the Coast Guard Reserve. It does not include the regular Coast Guard establishment except when, as in time of war, the Coast Guard becomes a part of the Navy. It includes soldiers' and sailors' homes.

The special schools now administered by the Department of Defense, both in the United States and abroad, for dependents of armed services personnel and other Federal employees, are not included in paragraph (c) (2), but are assigned elsewhere to the jurisdiction of the Committee on Education.

In paragraph (c) (3), "foreign and military intelligence" refers to all positive foreign intelligence affecting the national security. Pursuant to clause 3(d) of Rule X, oversight of such intelligence is shared with the Committee on Foreign Affairs; but each committee retains its former jurisdiction over the respective intelligence-producing departments and agencies. It should be noted that paragraph 3(a) of Rule X gives special oversight jurisdiction to the Committee on Armed Services, concurrently with the Committee on Foreign Affairs, over international arms control and disarmament.

Paragraph (c) (4) ("selective service") is adopted without change from the present rule.

In paragraph (c) (5), the phrase "scientific research and development in support of the armed services" is also adopted without change from the present rule. Pursuant to paragraph 3(e) of Rule X, this jurisdiction is subject to the special oversight of the Committee on Science and Technology over all Federal research and development.

Paragraph (c) (6) ("strategic and critical materials necessary for the common defense") is adopted without change from the present rule.

Paragraph (c) (7), relating to Naval petroleum reserves 1, 2 and 3, differs from the present rule in eliminating petroleum reserve 4 and the oil shale reserves, which are assigned elsewhere to the jurisdiction of the Committee on Energy and Environment.

For the specific language of this provision as presently stated in Rule XI and as proposed, see p. 145.

COMMITTEE ON BANKING, CURRENCY, AND HOUSING

Paragraph (d) establishes the new Committee on Banking, Currency, and Housing (formerly the Committee on Banking and Currency). This paragraph is a codification of the jurisdiction under the former Rule XI.

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1 the House during such Congress. Within 60 days after the
2 Congress convenes, the Committee on Government Opera-
3 tions shall report to the House the results of such meetings
4 and discussions, along with any recommendations which it
5 may have to assure the most effective coordination of such
6 activities and otherwise achieve the objectives of this clause.

7 “(d) Each standing committee of the House shall have
8 the function of reviewing and studying on a continuing basis
9 the impact or probable impact of tax policies affecting sub-
10 jects within its jurisdiction as described in clause 1.

11 “Special Oversight Functions”

12 “3. (a) The Committee on Armed Services shall have
13 the function of reviewing and studying, on a continuing basis,
14 all laws, programs, and Government activities dealing with
15 or involving international arms control and disarmament.

16 “(b) The Committee on Education shall have the func-
17 tion of reviewing and studying, on a continuing basis, all
18 laws, programs, and Government activities dealing with or
19 involving educational programs and institutions, and pro-
20 grams of student assistance, which are within the jurisdiction
21 of other committees.

22 “(c) The Committee on Energy and Environment
23 shall have the function of reviewing and studying, on a
24 continuing basis, all laws, programs, and Government activi-
25 ties dealing with or involving energy and environment re-

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1 rearch and development, flood control, and the Tennessee
2 Valley Authority.

3 “(d) The Committee on Foreign Affairs shall have the
4 function of reviewing and studying, on a continuing basis,
5 all laws, programs, and Government activities dealing with
6 or involving tariffs and customs administration, foreign and
7 military intelligence, international financial and monetary
8 organizations, and international fishing agreements.

9 “(e) The Committee on Science and Technology shall
10 have the function of reviewing and studying, on a continuing
11 basis, all laws, programs, and Government activities dealing
12 with or involving agricultural, military, biomedical, and
13 water research and development.

14 “(f) The Committee on Small Business shall have the
15 function of studying and investigating, on a continuing
16 basis, the problems of all types of small business.

17 “Legislative Review Functions

18 “4. (a) Whenever any bill or resolution relating to tar-
19 iffs or customs administration is reported by the Committee
20 on Ways and Means, it shall be referred for a period
21 certain to the Committee on Foreign Affairs before being
22 submitted to the House. The Committee on Foreign Af-
23 fairs shall review such bill or resolution, and may at any time
24 prior to the conclusion of such period report to the House,

Committee on Foreign Affairs

AMENDMENT OFFERED BY Mr. _____

Page 7, after line 7, insert the following new section:

LIMITING INTELLIGENCE ACTIVITIES

Sec. 10. Chapter 3 of Part III of the Foreign Assistance Act of 1961 as amended is amended by adding at the end thereof the following new section:

"Sec. 659. Limitation on Intelligence Activities. --

(a) No funds appropriated under the authority of this or any other act may be expended by or on behalf of the Central Intelligence Agency for operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, unless the President finds that each such operation is important to the national security of the United States and reports, in a timely fashion, a description and scope of such operation to the appropriate committees of the Congress, including the Committee on Foreign Relations of the United States Senate and the Committee on Foreign Affairs of the United States House of Representatives.

(b) The provisions of subsection (a) of this section shall not apply during military operations initiated by the United States under a declaration of war approved by the Congress or an exercise of powers by the President under the War Powers Resolution (Public Law 93-148)."

Any participation of Congress in covert actions conducted under the inherent power of the President raises a constitutional question. Clearly, the President in carrying out such activities must not be delayed or distracted by congressional voices in reaction to the action contemplated, particularly where dispatch, efficiency, and secrecy are indispensable to success.

I. Constitutional Powers of the President.

"As a nation with all the attributes of sovereignty, the United States is vested with all the powers of government necessary to maintain an effective control of international relations." Burnet v. Brooks, 288 U.S. 378, 396. These powers do not "depend upon the affirmative grants of the Constitution," but are "necessary concomitants of nationality." United States v. Curtiss-Wright Corp., 299 U.S. 304, 318.

"In the preservation of the safety and integrity of the United States and the protection of its responsibilities and obligations as a sovereignty" the constitutional powers of the President are broad. 30 O.A.G. 291, 292. "The very delicate, plenary and exclusive power of the President as the sole organ of the federal government in the field of international relations . . . does not require as a basis for its exercise an act of Congress", although, like all governmental powers, it must be exercised in subordination to any applicable provisions of the Constitution. United States v. Curtiss-Wright Corp., supra, at p. 320. His duty to take care that the laws be faithfully executed extends not merely to express acts of Congress, but to the enforcement of "the rights, duties, and obligations growing out of the Constitution itself, our international relations, and all of the protection implied by the nature of the government under the Constitution." In Re Neagle, 135 U.S. 1, 64. (1890).

Examples of the exercise of these broad powers are numerous and varied. Their scope may be illustrated by the following: The President may take such action as may, in his judgment, be appropriate, including the use of force, to protect American citizens and property abroad. Durand v. Hollins, Fed. Cas. No. 4186 (C.C.S.D.N.Y. (1860)); In Re Neagle, Supra,

135 U.S. at 64; Hamilton v. M'Claghry, 136 Fed. 445, 449-50 (D. Kansas, 1905); II Hackworth, Digest of International Law, 327-334; VI Id., 464-5. Notwithstanding the exclusive power of Congress to declare war, the President may repel armed attack and "meet force with force." Prize Cases, 2 Black 635, 668 (1862). He may impose restrictions on the operation of domestic radio stations which he deems necessary to prevent unneutral acts which may endanger our relations with foreign countries. 30 O.A.G. 291.

Congress' grants of powers to executive agencies in areas relating to the conduct of foreign relations and preservation of the national security from external threats are generally couched in terms which neither limit the powers of the President nor restrict his discretion in the choice of the agency through which he will exercise these powers. Thus, in establishing a Department of State in 1799, Congress directed that the Secretary should perform duties relating to "such . . . matters respecting foreign affairs as the President of the United States shall assign to the Department", and should "conduct the business of the department in such manner as the President shall direct." 1 Stat. 28; R.S. § 202, 5 U.S.C. 156.

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More recently, in establishing the National Security Council, Congress gave it the function of advising the President "with respect to the integration of domestic, foreign, and military policies relating to the national security." 50 U.S.C. 402 (a).

From the beginning of our history as a nation, it has been recognized and accepted that the conduct of foreign affairs on occasion requires the use of covert activities, which might be of a quasi-military nature. See, e.g., the acts of July 1, 1790, 1 Stat. 128, and Mar 1, 1810, sec. 3, 2 Stat. 609. In a message to the House of Representatives declining to furnish an account of payments made for contingent expenses of foreign intercourse, President Polk reviewed that practice and stated:

"The experience of every nation on earth has demonstrated that emergencies may arise in which it becomes absolutely necessary for the public safety or the public good to make expenditures the very object of which would be defeated by publicity." 1/

1/ President Polk continued:

"Some governments have very large amounts at their disposal, and have made vastly greater expenditures than the small amounts which have from time to time been accounted for on President's certificates. In no nation is the application of such sums ever made

Footnote 1 / continued:

public. In time of war or impending danger the situation of the country may make it necessary to employ individuals for the purpose of obtaining information or rendering other important services who could never be prevailed upon to act if they entertained the least apprehension that their names or their agency would in any contingency be divulged. So it may often become necessary to incur an expenditure for an object highly useful to the country; for example, the conclusion of a treaty with a barbarian power whose customs require on such occasions the use of presents. But this object might be altogether defeated by the intrigues of other powers if our purposes were to be made known by the exhibition of the original papers and vouchers to the accounting officers of the Treasury. It would be easy to specify other cases other cases (sic) which may occur in the history of a great nation, in its intercourse with other nations, wherein it might become absolutely necessary to incur expenditures for objects which could never be accomplished if it were suspected in advance that the items of expenditure and the agencies employed would be made public." 4 Richardson, Messages and Papers of Presidents, 431, 435 (April 20, 1846)

Compare also Stuart, American Diplomatic and Consular Practice (1952) p. 196, (commenting on prevailing diplomatic practice of all countries), "actual cases of interference in the internal affairs of states to which the envoys are accredited are very numerous."

An early example of such a secret operation is afforded by the Lewis and Clark expedition of 1803. That expedition was authorized prior to the Louisiana Purchase by a statute providing

"That the sum of two thousand five hundred dollars be, and the same is hereby appropriated for the purpose of extending the external commerce of the United States (2 Stat. 206)."

Congress used this cryptic language at the request of President Jefferson because, in the words of a present-day judge, the "expedition, military in character, would enter into lands owned by a foreign nation with which the United States was at peace and . . . the utmost secrecy had to be observed." ^{2/} First Trust Co. of St. Paul v. Minnesota Historical Soc., 146 F. Supp. 652, 656 (D.C. Minn. (1956)), aff'd sub. nom. United States v. First Trust Co. of St. Paul, 251 F. 2d 686 (C.A. 8).

^{2/} In his message to the Congress, President Jefferson stated: " * * * The appropriation of \$2,500 ' for the purpose of extending the external commerce of the United States, ' while understood and considered by the Executive as giving the legislative sanction, would cover the undertaking from notice and prevent the obstructions which interested individuals might otherwise previously prepare in its way. " (1 Richardson, Message and Papers of the Presidents, 352 at 354.)

Under modern conditions, the President can properly regard the conduct of covert activities as necessary to the effective and successful conduct of foreign relations and the protection of the national security. When the United States is attacked from without or within, the President may "meet force with force," Prize Cases, supra. In attempting to strengthen the free nations of the world and contain our adversaries, and thereby to advance the national security of the United States, the President should be deemed to have authority to meet covert activities with covert activities if he deems such action necessary and consistent with our national objectives. As Charles Evans Hughes said in another context, "Self-preservation is the first law of national life and the constitution itself provides the necessary powers in order to defend and preserve the United States." War Powers Under the Constitution, 42 A. B. A. Rep. 232 (1917). Just as "the power to wage war is the power to wage war successfully," id. 238, so the power of the President to conduct foreign relations should be deemed to be the power to conduct foreign relations successfully, by any means necessary to combat the measures taken by the Communist bloc, including both open and covert measures.

The exclusive power of Congress to declare war has been held not to prevent use by the President of force short of war to protect American citizens and property abroad. A fortiori, it does not prevent his use of force short of war for other purposes which he deems necessary to our national survival. In either case the magnitude and possible grave international consequences of a particular action may be such as to render it desirable for the President to consult with, or obtain the approval or ratification of, the Congress if circumstances permit such action. But the necessity for obtaining such approval does not depend on whether the action is overt or covert.

1. The President has inherent constitutional power to conduct the nations foreign affairs. United States v. Curtiss-Wright Export Corp., 299 U.S. 304 (1936); Chicago & S. Air Lines v. Waterman S. S. Corp., 333 U.S. 103 (1948); Oetjen v. Central Leather Co., 246 U.S. 297 (1918).

2. Foreign intelligence activities and covert action short of acts of war are included in this inherent Executive power.

3. However, since Congress controls the purse, it has the means to interfere with exercise of the President's inherent power. To the extent that Congress is attempting to secure for itself a share of power which is solely the President's, as the Hughes amendment seems to do, its actions may be unconstitutional.

4. That such attempt may be unconstitutional provides no answer to the practical problem of Congressional refusal to appropriate funds in the future for traditional Agency covert activity, assuming passage of the Hughes Amendment after veto, if it is discovered that the President has failed to comply with these restrictions imposed by Congress.

5. The Hughes Amendment involves a fundamental separation of powers issue which ultimately can be resolved by only the Supreme Court.

6. To the extent that covert action under the Hughes Amendment is viewed as having both Legislative and Executive approval, the situation may arise in which specific activity will arguably be de facto acts of war.